

COMMONWEALTH OF MASSACHUSETTS
BEFORE THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

)	
Investigation by the Department of)	
Telecommunications and Energy on its own)	D.T.E. 01-21
motion commencing a rulemaking pursuant to)	
220 C.M.R. § 2.00 <i>et seq.</i>)	
)	

INITIAL COMMENTS OF
WESTERN MASSACHUSETTS ELECTRIC COMPANY

I. Introduction

On May 25, 2001, the Department of Telecommunications and Energy (“Department”) issued an order instituting a rulemaking for the purpose of amending 220 C.M.R. 29.07 with respect to the determination of a residential customer’s rental or property owner’s responsibility in non-minimal use violations pursuant to 105 C.M.R. §§ 410.354 and/or 410.254 of the State Sanitary Code (“Sanitary Code”). Western Massachusetts Electric Company (“WMECO” or the “Company”) appreciates the opportunity to respond to the Department’s proposed regulations and hereby submits its initial comments. In addition, WMECO intends to participate in the Department’s hearing on this rulemaking on June 26th.

The substantive changes proposed are to 220 C.M.R. 29.07 and are shown below in italics:

(2)(a) Unless calculating the property owner's responsibility on the basis of minimal use pursuant to 220 CMR 29.08(1), a utility company *shall calculate the amount of the property owner's responsibility by determining the electric and/or gas usage attributable to the Code violation(s). Such determination may be based on industry standards for energy consumption of the appliance(s), outlet(s) or other energy source(s) involved in the violation, typical usage patterns, an analysis of billing patterns, or other reasonable method developed by the utility company. The company must explain the method used when it informs the property owner and tenant customer of the amount of the property owner's responsibility.*

(2)(b) *The utility company shall bill the property owner for the amount calculated pursuant to 220 CMR 29.07(2)(a) for the time period established pursuant to 220 CMR 29.07(1); and the utility shall refund such amount to the tenant customer pursuant to 220 CMR 29.10.*

(2)(c) *The property owner or tenant customer shall have the opportunity to dispute the utility company's calculation of the property owner's responsibility, and to present an alternative calculation, pursuant to 220 CMR 29.06(2)(d), 220 CMR 29.06(3)(g) and 220 CMR 29.09(1) within 60 days of the utility company's written notice issued pursuant to 220 CMR 29.06(2) or 220 CMR 29.06(3).*

WMECO recognizes that Department's intent in proposing these regulatory changes is to promote fairness by preventing an owner of a dwelling from being unduly penalized or a tenant in a dwelling from unduly profiting because of Sanitary

Code violations. The Company supports the Department in this objective, but wants to ensure that any new process put in place does not unduly complicate the process of resolving customer's Sanitary Code complaints and does not unfairly burden the utility company.

II. Estimation of Customer Usage is Difficult and Imprecise

Estimating usage can be a labor-intensive and time-consuming task and because estimation would be now be applied to non-minimal use situations, WMECO would be required to estimate usage more frequently than we do today. As an initial matter, it is difficult to estimate energy usage because the violation citations from the various city or town wiring inspectors often do not provide sufficient information upon which to base an estimate. It is sometimes difficult to know even if the violation is a minimal or non-minimal use one without further investigation (examples of the notification received are attached). As a result, it is necessary for WMECO personnel to contact the tenant or owner and arrange an inspection of the premises to attempt to determine the type of violation involved, and the appliances present. These type of investigations are time consuming and, if complex, require an expertise beyond that possessed by the Company's employees. For example, a complete investigation of a violation may require working on interior electrical wiring. Company meter personnel are not licensed electricians and, therefore, are restricted by Massachusetts law from such activities. Hence, it may be difficult for the Company to determine the extent of the wiring violation.

A second major problem concerns the determination of a dollar amount for electrical usage. The Company has no way of knowing how often certain appliances were used (for example, air conditioners) and beyond that there are no industry standards for electric usage for appliances. Actual usage varies greatly depending on the specific model, age, and condition of the appliance and customer life-style. Individual utility companies have compiled appliance usage guidelines, but these guidelines often vary, and an estimate based on those guidelines may be challenged by a competing estimate by the tenant or the landlord.

Therefore, by requiring estimates for non-minimal use violations in which a significant dollar amount is at issue, WMECO believes that the Department would be making resolution of Sanitary Code complaints generally more complex. In addition, with respect to Department's limited resources, the Department might be forced to spend a great deal of time attempting to estimate energy usage for a wide range of uses when there is truly no way to really know the usage of the affected electrical use.

III. Additional Administrative Procedures May be Required

Should the Department wish to move forward to provide fairness in its Sanitary Code matters, WMECO recommends additional revisions to Section 29.07. First, the regulations should provide that any estimate of energy usage submitted by the utility company is considered conclusive unless the tenant or landlord provides compelling evidence to the contrary. Second, in order to assist the utility company, the Department should further provide guidelines for the

estimation of standardized appliance usage. Finally, the Department should clarify how the Sanitary Code procedures would work when a competitive supplier provides generation services for the customer.

IV. Conclusion

WMECO acknowledges the Department's interest in amending 220 C.M.R. 29.07 to promote fairness between the costs to be borne by landlords and tenants. However, the regulatory changes as proposed will likely increase the complexity of Sanitary Code cases and significantly increase the time and effort expended on these cases by utility companies and the Department. In order to reduce or minimize this added complexity and time and effort, WMECO recommends that a consistent set of administrative procedures be developed for use by all utility companies across the Commonwealth before these regulations can be implemented. These procedures should include:

1. A uniform estimation procedure and standardized appliance usage.
2. A procedure for dealing with the generation portion of the customer's bill. The current regulation is silent on which utility, the distribution company or the competitive generation supplier, has the responsibility for the calculation and initial mediation process.
3. A procedure for dealing with the escrow accounts that allows the utility company to hold escrow funds until all appeals are final.

Resolving these procedural issues will allow the proposed changes to the billing regulations to occur in a more efficient and less confusing manner for all parties.

The Company appreciates the opportunity to comment and looks forward to working with the Department and other involved parties to reach a resolution on changes to 220 C.M.R. 29.



TOWN OF WEST SPRINGFIELD

Building Department

Code Enforcement

26 Central Street West Springfield, MA 01089-2753

Phone: (413) 263-3059 Fax: (413) 263 3018

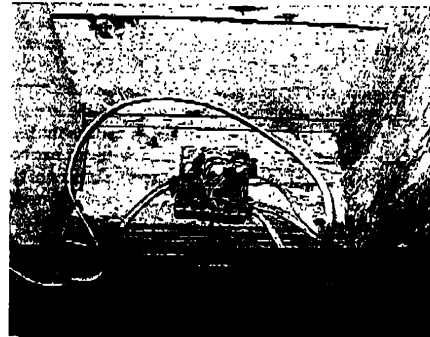
E-Mail: tomal@map.com

Tuesday, February 20, 2001

Re: Crossed utilities at [REDACTED] West Springfield

Dear [REDACTED]

This office has received a complaint of high electrical bills (unusual increases from past history) from the second floor dwelling unit at [REDACTED]. An inspection by this department on 2-16-01 has found crossed wiring in the basement. A wire has been installed into a junction box, fed by the second floor service panel, that is running into the first floor kitchen. It has been tested and traced.



You are hereby ordered to cease and desist in this violation by taking appropriate steps to correct this cross wiring and ensure separate utilities for both apartments.

Please cooperate with your neighbors and townspeople and correct the violation. Failure to comply may result in the imposition of penalties as set forth in the Mass State Building Codes, CMR 780 and CMR 410, Section 354, a copy of which is enclosed.

Very truly yours,

Tom Lagodich

Assistant Building Inspector

This inspection report is signed and certified under the pain and penalties of perjury.

cc: Town Counsel, Tina Norstrom, and Mayor's Office

Official use only

Date of notification 2-20-01	Re-inspected	File - Russell 54 cross u 2-20-01.doc
Compliance Yes <input type="checkbox"/> No <input type="checkbox"/>	Trial Court Date	Docket #



Franklin County Cooperative Inspection Program

County Court House - STE 25
425 Main Street, Greenfield, MA 01301-3393

Building
(413) 772-2026
8:00 a.m. - 3:30 p.m.

FAX: 773-0896
Plumbing & Gas
(413) 774-5878
8:00 a.m. - 10:00 a.m.

Wiring
(413) 774-5623
8:00 a.m. - 10:00 a.m.

January 23, 2001

Member Towns

Ashfield
Barnstable
Buckland
Charlemont
Conway
Framingham
Gill
Hawley
Heath
Leicester
Leyden
Monroe
Northfield
Northampton
Shelburne
Shutesbury
Wendell
Whately

██████████
██████████
Whately, MA 01093

Dear ██████████

In response to your letter dated January 11, 2001, I inspected the dwelling unit located at ██████████ in Ashfield. At issue is whether or not a "cross wiring" condition exists.

It appears that three independent dwelling units are supplied with water from a common well that is metered by the tenant in the middle building, a Mr. ██████████. It is therefore concluded that "cross wiring" does exist on this premises.

In addition, it appears that illegal wiring, plumbing, and construction work has recently been done, and several obvious Code violations are present.

Sincerely,

Edward F. Marchefka
Electrical Inspector

EFM/jb

cc: ██████████
██████████
██████████